

PROPOSED AMENDMENT TO LOCAL RULES

The Local Rules Committee of the Eastern District has recommended to the court that it adopt a proposed rule dealing with adequate protection payments under Section 1326(a)(1) of Title 11. Pursuant to Bankruptcy Rule 9029, members of the Bar and public are provided an opportunity until February 10, 2006 to comment on whether the proposed rule should be adopted by the court.

. The recommendation with respect to the payment of all adequate protection payments required by 11 U.S.C. § 1326 (a)(1) is as follows:

1. The debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief.
2. Unless the Chapter 13 plan ("Plan") provides that the entire secured claim is to be paid directly by the debtor to the creditor, the debtor shall pay to a creditor, who holds an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of the property by the debtor, pre-confirmation adequate protection payments through the Chapter 13 trustee; however, the court may order payments to be made by any other method.
3. The presumptive adequate protection payment to be paid pursuant to Section 1326(a)(1) shall be one percent (1%) of the value of the subject collateral as of the petition date. The valuation of the collateral shall be made solely by the Chapter 13 trustee, subject to further court consideration.
4. All adequate protection payments paid through the Chapter 13 trustee shall be subject to an administrative fee in favor of the trustee equal to the trustee's statutory percentage commission then in effect, and the trustee shall collect the fee at the time of the distribution of the adequate protection payment to the claimant.
5. The Chapter 13 trustee shall make adequate protection payments to the creditor at the address duly noted on the proof of claim. The use of the address shall be deemed proper notice of the creditors for purpose of the adequate protection payments.
6. The Chapter 13 trustee shall not be required to make pre-confirmation adequate protection payments on account of any claim for which the secured value of the claim is less than \$2,000.00.
7. All adequate protection payments made through the Chapter 13 trustee shall be disbursed in the ordinary course of the trustee's business, according to the trustee's standard monthly distribution schedule, from funds in the case as they become available for distribution to claimants prior to or after entry of the Order Confirming Plan.
8. Upon the dismissal or conversion of the Chapter 13 case to another chapter prior to confirmation, the Chapter 13 trustee shall make the pre-confirmation adequate protection payments, or portion thereof, from any funds available for that purpose received on or before the date of the entry of the order of dismissal or conversion, to creditors that have filed proofs of claim that have been deemed allowed pursuant to Section 502(a), prior to the date of the dismissal or conversion.